

Misuse of Social Security Numbers

§ 2.2-2818. Health and related insurance for state employees.

- N. *Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee, and shall not be the same as the employee's social security number.*

§ 59.1-200. Prohibited practices.

- A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:
35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has (i) *requested that his control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 be used or* (ii) requested in writing that the supplier use an alternate number not associated with the consumer's social security number;
39. *Violating any provision of the Personal Information Privacy Act, Chapter 35 (§59.1-441.7 et seq.) of Title 59.1.*

§ 59.1-443.2. *Restricted use of social security numbers.*

- A. *Except as otherwise specifically provided by law, a person shall not:*
1. *Intentionally communicate ~~or otherwise make available, in any manner, an individual's social security number to the general public;~~*

NOTE: The Committee was not satisfied with the practical effect of "otherwise make available, in any manner" and expressed concern that the proposal contains no definition.

2. *Print an individual's social security number on any card required for the individual to access or receive products or services provided by the person or entity;*
3. ~~*Require an individual to transmit his social security number over the Internet unless the connection is secure or the social security number is encrypted;*~~

NOTE: The Committee discussed whether the information technology professionals could define secure and encrypted. Members understood that what constitutes "secure" and "encrypted" would change over time and would be different based on the industry and information. However, unable to define "secure" and "encrypted," the Committee voted to delete this provision.

4. *Require an individual to use his social security number to access an Internet website, unless a password or unique personal identification number or other authentication device is also required to access the site;*
5. ~~*Require an individual to disclose or furnish his social security number to access or receive goods or services unless the request or requester is subject to a state or federal statute, regulation or rule that governs the use and disclosure of social security numbers and such request or use is not prohibited by a state or federal statute, regulation or rule; or*~~

NOTE: The Committee did not want to restrict what who could require an individual's social security number to access goods and services.

65. *Send or deliver or cause to be sent or delivered, any letter, envelope or package that displays a social security number on the face of the mailing envelope or package or from which a social security number is visible, whether on the outside or inside of the mailing envelope or package.*

NOTE: Other states have adopted the provision:

~~*Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. This paragraph does not prohibit the mailing of documents that include social security numbers sent as part of an application or enrollment process or to establish, amend or terminate an account, contract or policy or to confirm the accuracy of the social security number.*~~

California and Illinois have combined the two provisions:

~~*Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding this paragraph, social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the social security number. A social security number that may permissibly be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope or visible without the envelope having been opened.*~~

NOTE: In previous meetings, the Committee discussed the top two provisions. However, at its final meeting, the Committee decided to not discuss this provision and, by default, retained the original provision.

- B. *Notwithstanding subsection A, a person that, before July 1, 2005, used an individual's social security number in a manner inconsistent with subsection A may continue using that individual's social security number in that manner on and after July 1, 2005, subject to the following conditions:*

1. *The use of the social security number must be continuous. If the use is stopped for any reason, subsection A applies.*
 2. *Beginning July 1, 2005, the person must provide the individual with an annual written disclosure of the individual's right to stop the use of the social security number in a manner prohibited by subsection A.*
 3. *If the individual requests in writing, the person must stop using the social security number in a manner prohibited by subsection A within 30 days after receiving the request. No fee or charge is allowed for implementing the request, and the person shall not deny goods or services to the individual because of the request.*
- C. *This section does not prohibit the collection, use or release of a social security number as required by the laws of the Commonwealth or the United States or the use of a social security number for internal verification or administrative purposes unless such use is prohibited by a state or federal statute, regulation or rule.*
- D. *In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, or a contractor, the requirements of subdivision A 2 shall become operative on January 1, 2006, and the requirements of subdivision B shall not apply.*
- E. *This section does not apply to public bodies as that term is defined in § 2.2-3701.*

This section does not apply to records required by law to be open to the public, nor should it be construed to limit access to records pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

NOTE: This provision would capture state and federal -- there is a similar provision in FOIA that is interpreted as any law, not just state law. The Commonwealth's policy regarding the FOIA is neither to restrict uses of public records nor to inquire what those uses will be. FOIA is the appropriate place to address the issue of whether government should disclose this information.

The Committee wanted to adopt this provision because other states that adopted similar statutes exempted public records. However, other states' public records laws are different from those of the Commonwealth.

- F. *A person may not ~~encode or embed~~ a "an encrypted or unencrypted" social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number as required by this section.*

NOTE: California and Illinois added this provision. The Committee discussed how "encode" as used in this subsection and "encrypt" in subsection A relate to one another. This section prohibits someone from bypassing the requirement to remove the social security numbers from cards for accessing goods and services by converting the social security number in a machine-readable form.